

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 16.08.2018

CORAM

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

Crl.O.P.No.2660 of 2014
and M.P.No.1 of 2014
and
Crl.M.P.No.7767 of 2018

Jacquelin Suja

... Petitioner

Vs.

1.M.Christian Justus
2.V.Ragu

... Respondents

PRAYER: Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the records in Crl.M.P.No.5695 of 2013 in M.C.No.8 of 2011 on the file of the learned XXIII Metropolitan Magistrate, Saidapet, Chennai and quash the same.

For Petitioner : Mr.R.Prasadh

For Respondents: Mr.R.Arun for R2

O R D E R

This Criminal Original Petition has been filed to quash the order passed by the XXIII Metropolitan Magistrate, Saidapet, Chennai in Crl.M.P.No.5695 of 2013 in M.C.No.8 of 2011, dated 03.06.2013.

2. The learned Counsel for the petitioner has submitted that the petitioner herein has filed M.C.No.8 of 2011 against the first respondent herein seeking certain reliefs under the Protection of Women from Domestic Violence Act, 2005 (herein after referred to as 'the Act'). He further submitted that the learned Metropolitan Magistrate has passed an interim order restraining the first respondent herein from disturbing the petitioner's possession of the property bearing Door No.6 (Plot No:44/O), Thiyaagi Kuppuswamy Street, M.G.R.Nagar, Chennai - 600 078. He further submitted that the second respondent herein has filed an application in Crl.M.P.No.5695 of 2013 stating that he is the landlord of the said house and he has been affected by the interim order passed against the first respondent herein and hence he requested to implead him as second respondent. He further submitted that the learned Magistrate without considering the objection raised by the petitioner herein, has allowed the said application. He further submitted that the second respondent herein being the third party, he is in no way connected with the proceedings in M.C.No.8 of 2011 and hence, he requests to set-aside the order passed in Crl.M.P.No.5695 of 2013 on the file of the XXIII, Metropolitan Magistrate, Saidapet, Chennai.

3. In this petition, since no relief is asked against the Respondent No.1, notice to Respondent No.1 is dispensed with. The learned counsel for the second respondent has submitted that under the guise of interim order which was obtained by the petitioner herein has virtually prevented the second respondent from entering into the aforesaid property and collecting the rent and hence he is a necessary party to the aforesaid proceedings and therefore, he requests to dismiss the above original petition.

4. Admittedly, the petitioner herein has filed M.C.No.8 of 2011 seeking certain reliefs under the Act, against the first respondent herein, in which, an interim order was passed on 11.03.2011 restraining the first respondent herein from disturbing the possession of the petitioner herein in respect of the house bearing Door No.6 (Plot No:44/O), Thiyaagi Kuppuswamy Street, M.G.R.Nagar, Chennai - 600 078. The second respondent herein being the landlord of the aforesaid house, is not a family member of the first respondent. As per Section 12 of the Act, the aggrieved person or Protection Officer or any other person on behalf of the aggrieved person may present an application to the Magistrate seeking one or more reliefs under the Act.

5. "Aggrieved person" is defined under Section 2(a) of the Act which reads thus:

'aggrieved person' means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent."

6. The "respondent" is defined under Section 2(q) of the Act which reads thus:

'respondent' means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act.

Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner;'

7. "Domestic relationship" is defined under Section 2(f) of the Act, which reads thus:

'domestic relationship' means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family.'

8. From the aforesaid definitions, it is clear that the aggrieved person can file a petition against the respondent seeking reliefs under the Act and the 'respondent' means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under the Act. The second respondent being a landlord cannot claim that he comes under the definition of domestic relationship. Therefore, he is not at all a necessary party in the aforesaid proceedings. In the proceedings initiated under the Protection of Women from Domestic Violence Act, the third party is not at all having any right to participate. If he is having any independent right, it is open to him to work out his remedy before the appropriate forum under any other law. If the third party is allowed to participate in these proceedings, then it would complicate the issues and the aggrieved person cannot get reliefs quickly. The very purpose of the Act will be defeated. Therefore, the impugned order passed by the XXIII Metropolitan Magistrate Court, Saidapet is liable to be set-aside.

9. In the result, this petition is allowed. Consequently, connected miscellaneous petitions are closed. Impugned order passed in CrI.M.P.No.5695 of 2013 in M.C.No.8 of 2011 on the file of the XXIII Metropolitan Magistrate, Saidapet, Chennai is set-aside. Since, M.C.No.8 of 2011 is pending for the past 7 years, the concerned Metropolitan Magistrate is directed to dispose of the same as early as possible, preferably, within three months from the date of receipt of copy of this order.

Sd/--

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

- 1.The XXIII Metropolitan Magistrate,
Saidapet, Chennai.
- 2.-do-thro The Chief Metropolitan Magistrate, Egmore,
Chennai.
- 3.The Public Prosecutor,
Madras High Court, Chennai.

+1cc to Mr.R.Arun, Advocate SR.No56301

Copy to:The Section Officer,
Criminal Section,
High Court, Madras 104.

SV(CO)

sm:12.9.2018

CrI.O.P.No.2660 of 2014

and

M.P.No.1 of 2014

and

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